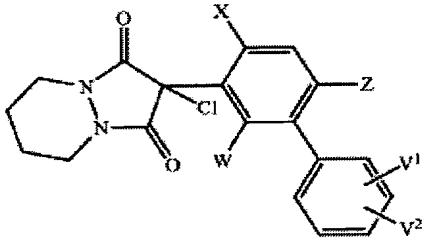
Remarks

In reply to the Office Action dated May 7, 2008, requesting an election of one invention to prosecute in the above-referenced patent application, Applicant hereby provisionally elect to prosecute the invention of Group I, represented by claims 1-5, 7, 10, 12, 13 and 14.

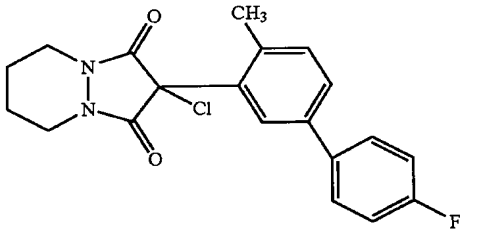
The Office has also required Applicants to elect a single species for search purposes. Applicants provisionally elect Formula (I-1) for search purposes:

(I-1)



Published Application No. 2007/0093391, page 29, paragraph [0484].

Compound I-1-1, is representative of the sub-genus elected for search purposes:



Published Application No. 2007/0093391, page 29, paragraph [0478].

This election is made without prejudice to or disclaimer of the other claims or inventions disclosed. Applicants believe that examination of this sub-genus of Group I would not place an undo burden on the examiner.

This election is made *with* traverse.

The above-identified application is a National Phase Entry Under 35 U.S.C. § 371 and, as such, PCT Rule 13 requiring unity of invention applies. Title 37 of the Code of Federal Regulations states:

> (b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:
>
> (1) A product and a process specially adapted for the manufacture of said product; or
>
> (2) ***A product and a process of use of said product***;

37 C.F.R. § 1.475 (b)(1)(2) (emphasis added).

The claims of Group I identified by the Office are directed to products, i.e., the compounds and compositions of claims 1-5, 7, 10, 12, 13 and 14. The claims of Group III identified by the Office are directed to processes of use of the product, i.e., methods for controlling animal pests, unwanted vegetation and/or unwanted microorganisms in which compounds of formula (I) are allowed to act on pests, unwanted vegetation, unwanted microorganisms and/or their habitat. Groups I and III therefore are related as products and processes for using such products, respectively. As noted, 37 C.F.R. § 1.475 (b)(2) states that a national stage application containing claims to a product and a process of use of said product will be considered to have unity of invention. Applicants

therefore respectfully assert that the Groups I and III share unity of invention and the Restriction Requirement is improper.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

Other Matters

Claims 9, 11, and 16 stand rejected under 35 U.S.C. § 101, second paragraph as allegedly being "drawn to subject matter that is non-statutory under 35 U.S.C. 101 and cannot be examined as written." (Office Action, page 2). In the interest of expediting prosecution, claims 9, 11, and 16 have been cancelled, rendering this rejection moot. Accordingly, Applicants respectfully request that the rejection be withdrawn.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents.

However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

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